

Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Department of the Treasury  
Director, Exempt Organizations

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Date: December 19, 2008

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Uniform Issue List Number:  
4945.04-04

Legend:

B = Foundation  
C = Administrator  
D = Scholarship Program  
E = Company  
x = number  
y = number

Dear :

This is in reference to your letter of July 29, 2008 requesting advance approval of your grant procedures under section 4945(g)(1) of the Internal Revenue Code.

The information submitted indicates that grants funded by you, private foundation B, will be administered, supervised, and paid out by C. C is exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code and has been classified as a publicly supported organization. The name of your scholarship program is D.

Under the terms of an agreement you have entered with C, you will make annual contributions to C to fund scholarships for the dependent children of the employees of E. All funds received by C from B will be applied for the payment of the awards in D (excluding fees and expenses). C will prepare and furnish an on-line e-application on C's website; receive, send e-acknowledgements and process application materials; review applications based on students' self-declared information; select and send e-notification to approximately y finalists, and send e-notification to students not selected as finalists; evaluate finalists' application information; select and notify x award recipients, notify finalists not selected as recipients; confirm enrollment in an educational institution; make payment of the awards to student recipients on behalf of B only to the extent that B has advanced the money to C; and provide management reports to B on program activity and results.

Recipients are determined solely by C using the eligibility guidelines provided by you. Each candidate is evaluated based on the following: academic record, demonstrated leadership and participation in school and community activities, work experience, statement of educational plans as they relate to career objectives and future goals, and an appraisal completed by a teacher, counselor or someone who knows the student's accomplishments. Unusual family or personal circumstances that may have affected the student's achievements in school, work experience, or ability to participate in activities are also considered.

Financial need will not be considered.

Up to x number of \$1,000 scholarships will be granted. At least 80% of the awards will be granted to daughters and sons of hourly associates if there are sufficient qualified students. The awards are not renewable and are for undergraduate study only.

The Agreement entered between B and C specifically requires C to manage D "in full compliance with Internal Revenue Service Revenue Procedure 76-47. One factor in B's decision to select C to manage D is based on C's experience in administering employer related scholarship programs in compliance with the requirements outlined in the Revenue Procedure.

The number of new awards granted by you in any year will not exceed 25 percent (after applying the rounding convention of the IRS Rev. Proc. 94-78) of the number of employees' children who: (i) were eligible; (ii) were applicants for such grants; and (iii) were considered by the selection committee in selecting the recipients of grants in that year.

The scholarships will not be used as a means of inducement to recruit employees for B and E nor will a grant be terminated if the employee leaves B and E. Scholarships will only be awarded to students who plan to enroll in institutions that meet the requirements of section 170(b)(1)(A)(ii) of the Code. The recipient will not be restricted in his/her course of study. C will supply statistical information on applications received and grants made, which will enable you to maintain the records required by Rev. Proc. 76-47, 1976-2 C.B. 670. You will ensure compliance with the percentage tests under section 4.08 of Rev. Proc. 76-47 in the aggregate with respect to your other scholarship programs available to the same individuals.

B specifies the eligibility guidelines for C. The guidelines limit C to consider only children of E's employees. In no instance does any officer or associate of E or D play a part in the selection of finalist of the awards.

The following requirements are placed on applicants:

- a. Applicants must be dependent\* children, age 23 and under, of full-time or part-time associates of E's participating divisions. Associates of E must have a minimum of two years of employment with the company as of the application deadline date. Part-time associates must have worked 1,000 hours in the preceding calendar year in order for their dependent to be eligible. Eligibility is not related to any other employment related factors.

\* Dependent children are defined as natural and legally adopted children or stepchildren living in the associat'se household or primarily supported by the

associate. Children of vice presidents and above are not eligible.

- b. Applicants must be high school seniors or graduates who plan to enroll or students who are already enrolled in a "full-time" undergraduate course of study at an accredited two-year or four-year college, university or vocational-technical school.

C uses a computer-generated screening process, based on self-declared academic information, leadership and participation in school and community activities and work experience, to identify finalists from the pool of applicants.

D will verify the eligibility of the applicants after the applicants are selected as potential recipients before C evaluate and selected the finalist from the eligible pools.

The following modified weighted evaluation will be used to select the finalists.

- |  |            |
|--|------------|
| ▪ Scholastic performance:                    | 60 points  |
| ▪ Scholastic aptitude:                       | 40 points  |
| ▪ Work experiences:                          | 30 points  |
| ▪ Activities, leadership, awards and honors: | 20 points  |
| ▪ Applicant appraisal:                       | 40 points. |

A check made payable to the school is mailed by C to the recipient's home address.

D will be promoted throughout E's offices and locations. Posters will be displayed in break rooms in work locations. A toll-free number will be promoted for E's employees to obtain an information packet about how a student may apply for a scholarship grant. Information about D also will be available on E's intranet site and in E's internal newsletter that is disseminated to E's employees.

Section 4945 of the Code provides for the imposition of taxes on each taxable expenditure of a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of section 4945(g).

Section 4945(g)(1) of the Code provides that section 4945(d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary, if it is demonstrated to the satisfaction of the Secretary that the grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational institution described in section 170(b)(1)(A)(ii).

Revenue Ruling 81-217, 1981-2 C.B. 217, describes a situation involving a private foundation making grants to an organization that is not a private foundation to provide scholarships only to children of a particular employer. The organization that is not a private foundation evaluates the students according to its own criteria, including student performance on a qualifying examination. Since grant funds are distributed only to children of employees of a

particular company, students who receive scholarships are not selected "completely independently" of the grantor. Accordingly, any such scholarships awarded and paid after March 8, 1982, are considered to be individual grants under section 4945(d)(3), for which advance approval of grant procedures are required under section 4945(g).

Rev. Proc. 76-47, 1976-2 C.B. 670, sets forth guidelines for a private foundation conducting an employer related grant program to obtain advance approval of its procedures for conducting such a program under section 4945(g) of the Code. Sections 4.01 through 4.07 set forth eight conditions which a private foundation must meet in order to obtain advance approval of its procedures under section 4945(g) of the Code. Section 4.08 provides that a private foundation which makes scholarship awards to children of employees of a company, or to the employees themselves will meet this test if it limits these grants to 25% of all eligible applicants or 10% of all those shown to be eligible in any given year. Renewals of grants awarded in prior years will not be considered in determining the number of grants awarded in a current year.

Based upon the information submitted, and assuming your program will be conducted as proposed, with a view to providing objectivity and nondiscrimination in the awarding of scholarship grants, we rule that your grants to C for the awarding of scholarship grants comply with the requirements of section 4945(g)(1) of the Code. Expenditures made in accordance with these procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3) of the Code, and as such are eligible for the exclusion from income provided for in section 117(a) of the Code to the extent that such grants are actually used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

This ruling is conditioned on the understanding that there will be no material changes in the facts upon which it is based. It is further conditioned on the understanding that no grants will be awarded to your organization's creators, officers, directors, trustees, or members of the selection committee, or for a purpose inconsistent with the purposes described in section 170(c)(2)(B) of the Code.

The approval of your grant-making procedures is a one time approval of your system of standards and procedures for selecting recipients of grants that meet the requirements of section 4945(g)(1) of the Code. Thus, approval will apply to succeeding grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions, that we intend to make available for public inspection, is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi  
Director of Exempt Organizations  
Rulings and Agreements

Enclosure: Notice 437